

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

PATRICK KUPISZEWSKI)	
Plaintiff,)	
)	
v.)	No.: FILED: MAY 28, 2008
)	
COOK COUNTY POLICE OFFICER)	08CV3068 PH
BARBER, Star # 106, Individually and)	JUDGE MANNING
as employee/agent of COOK COUNTY,)	MAGISTRATE JUDGE COLE
)	
)	<u>JURY TRIAL DEMANDED</u>
)	
Defendants.)	

COMPLAINT AT LAW

The plaintiff, Patrick Kupiszewski, by and through his attorneys, the Law Offices of Jeffrey J. Neslund, complains as follows against the defendants Cook County Sheriff's Police Officer Barber, Star No. 106 (hereinafter referred to as "BARBER"), and Cook County:

JURISDICTION and VENUE

1. This Court has jurisdiction of this action under the Civil Rights Act, 42 U.S.C. §1983 et seq.; the judicial code, 28 U.S.C. §§ 1331 and 1343(a); the Constitution of the United States; and supplementary jurisdiction, as codified in 28 U.S.C. §1367(a).

2. Venue is founded in this judicial Court upon 28 U.S.C. Section 1391 as the acts complained of arose in this district.

PARTIES

3. Plaintiff, Patrick Kupiszewski, is a citizen of the United States, who, at the time of the events complained of, resided in the city of Chicago, Illinois.

4. Defendant BARBER was, at the time of the events complained of, employed by the Cook County Sheriff's Department, and was acting under color of state law and as employee,

agent, or representative of the Cook County Sheriff's Department. This officer is being sued in his individual/personal capacity.

5. Defendant Cook County is empowered and directed to pay any judgment for compensatory damages (and associated attorney's fees and costs) for which any Cook County Sheriff's Department deputy, including defendant BARBER, acting within the scope of his/her employment is found liable. Accordingly, Cook County is an indemnification party to Count II of this Complaint.

FACTS

6. On or about May 28, 2006, plaintiff was operating a motor vehicle and was pulled over by Defendant BARBER in the vicinity of the intersection of River Road and Kensington in Mount Prospect, Cook County, Illinois.

7. On the above date and location, Defendant BARBER approached the driver's side of the plaintiff's vehicle and ordered the Plaintiff out of the car.

8. As the Plaintiff was removing his seatbelt, Defendant BARBER opened the driver's side door of Plaintiff's car, grabbed the Plaintiff by the shirt and neck and forcibly dragged the Plaintiff from his front seat. Defendant BARBER then violently dragged the Plaintiff to the rear of his vehicle and forced his head into the pavement with his knee.

9. The physical violence inflicted upon the plaintiff by the defendant BARBER was excessive, unnecessary, and unreasonable.

10. As a result of the actions of defendant BARBER, the plaintiff was taken to Lutheran General Hospital and treated for multiple abrasions and lacerations to his neck, face and head.

11. The acts of the defendants as described in this complaint were willful,

wanton, malicious, oppressive, and done with reckless indifference to and/or callous disregard for plaintiff's rights.

COUNT I – 42 U.S.C. §1983: Excessive Force

12. Plaintiff re-alleges and incorporates the foregoing paragraphs 1-11 as fully stated herein.

13. The acts of defendant BARBER were a deliberate and malicious deprivation of the plaintiff's constitutional rights against excessive force as guaranteed to the plaintiff by the Fourth Amendment of the Constitution and made applicable to the states by the Fourteenth Amendment.

14. As a result of the unreasonable and unjustifiable excessive force used by defendant BARBER, the plaintiff suffered physical and emotional injuries, and other damages in violation of 42 U.S.C. 1983.

COUNT II – State Law Claim: Indemnification

15. Plaintiff re-alleges and incorporates paragraphs 1-11 above as fully stated herein.

16. In Illinois public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities. 735 ILCS 10/9-102.

17. DEFENDANT BARBER was an employee of COOK COUNTY and acted within the scope of his employment as a COOK COUNTY Police Officer in committing the misconduct described herein.

REQUEST FOR RELIEF

18. Plaintiff, Patrick Kupiszewski, respectfully requests that the Court:

a. Enter judgment in his favor and against the Defendants,

- b. Award compensatory damages against Defendants, COOK COUNTY POLICE OFFICER BARBER, Star # 106, individually and as an employee/agent of COOK COUNTY;
- c. Award attorneys' fees against the Defendants,
- d. Award punitive damages against COOK COUNTY POLICE OFFICER BARBER, star # 106; and
- e. Grant any other relief this Court deems just and appropriate.

JURY DEMAND

Plaintiff,, demands a trial by jury under the Federal Rule of Civil Procedure 38(b) on all issues so triable.

By:

Jeffrey J. Neslund,

Law Offices of Jeffrey J. Neslund
Attorney for Plaintiff
150 N. Wacker Drive, Suite 2460
Chicago, Illinois 60606
312/223-1100